ATTACHMENT B

Google's Renewed Motion for Judgment As A Matter of Law (Invalidity)

Sonos, Inc. v. Google LLC.

Case: 6:20-cv-881

Google's Prior Art References Disclosed Multiple Overlapping Zone Scenes
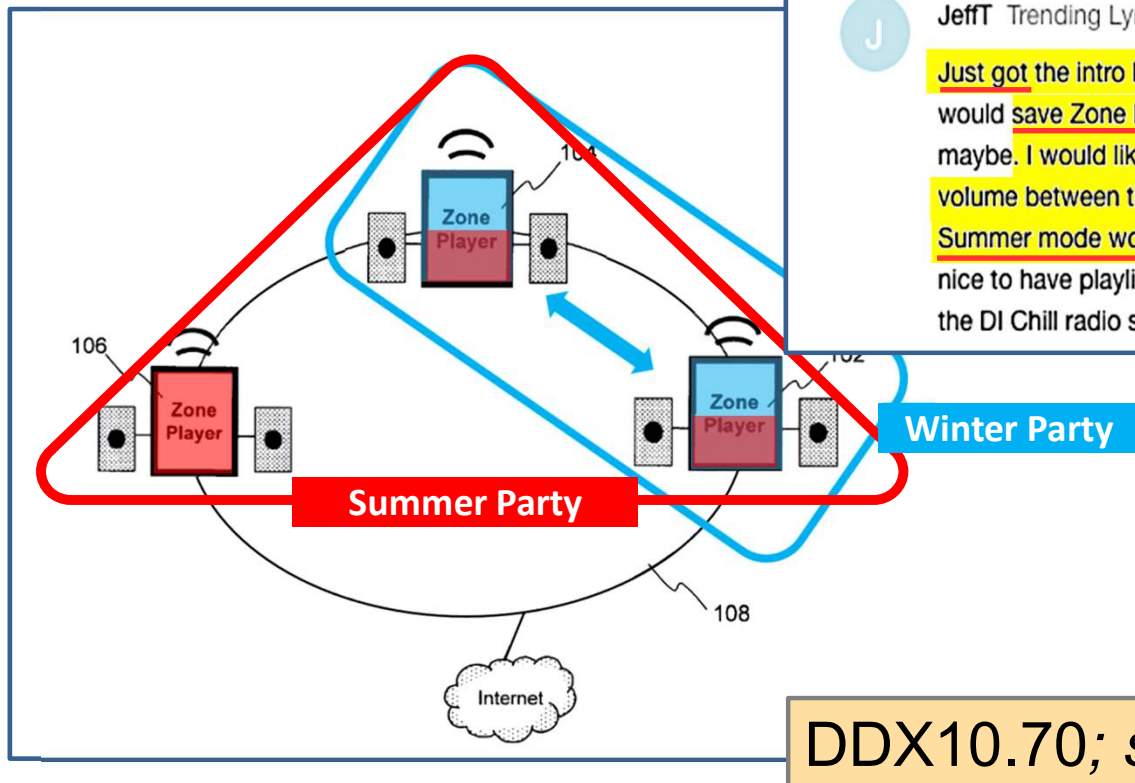
Sonos Incorrectly Argues That Google's Arguments Depend Solely on Sonos 2005 Party Mode Being a Zone Scene

Google's obviousness arguments all depend on its contention that Party Mode in the Sonos 2005 System was a zone scene. Google relied on the Party Mode feature to teach zone scenes themselves and to teach the limitations of creating, saving, and invoking a zone scene in the asserted claims. Party Mode was not a zone scene because (1) it was not previously saved, and (2) it was simultaneously created and invoked—there was no separate step of invoking Party Mode. The jury could have found that Google failed to prove Party Mode had either or both of those features and thus rejected Google's obviousness arguments.

Sonos Opp. at 2

INCORRECT – Other Prior Art Also Undisputedly Disclosed Zone Scenes

Prior Art Sonos Forum Posts Disclosed Overlapping Zone Scenes

Macro / presets

16 years ago · 61 replies · 15122 views

22 September 2005

JeffT Trending Lyricist I · 20 replies

Just got the intro bundle, and I am impressed. I did a search and did not find this suggested, but I would save Zone links as favorites. With only 2 ZPs it is not a problem yet, but when I add more it maybe. I would like to setup say Morning mode for the units I want in the morning and a preset volume between the units. Another example I would have 2 party modes, Summer and Winter. The Summer mode would include the deck speakers and the Winter mode would not. Also it would be nice to have playlists or radio station associated with each mode. So when I get up I press Morning the DI Chill radio station plays.

Winter Party

Summer Party

TX3930 at 1

DDX10.70*; see also* Transcript at 1435:10-24

4

Prior Art Sonos Forum Posts Disclosed Overlapping Zone Scenes

SONOS

Robert Lambourne

'885, '966 Patents Inventor

Q. What Jeff T, the user, was describing in a publicly available Sonos forum posting dated September 22nd, 2005, is having multiple zone scenes that are saved for later; correct?

A. Yes.

* * *

Q. And those zone scenes could be overlapping in that they would share a speaker or a ZonePlayer; correct?

A. Yes, and in the summer and winter mode he is describing, yes.

Transcript at 539:17-24

5

Prior Art Sonos Forum Posts Disclosed Overlapping Zone Scenes

Virtual Zones and Zone Grouping

17 years ago · 190 replies · 45377 views

27 February 2005

theboyg Avid Contributor I · 22 replies

This "link/unlink" business is really cumbersome - and not a joy to use which goes against the ease of use of the rest of the system.

Why can't I have a virtual zone - ie a zone called "Downstairs" - and I can group all my downstairs zones into this. Then I dont have to keep manually linking/unlinking multiple zones everytime.

PLEASE !

G.

TX2424

6

Prior Art Sonos Forum Posts Disclosed Overlapping Zone Scenes

SONOS

Robert Lambourne

'885, '966 Patents Inventor

Q. And the user boyG says, "Why can't I have a virtual zone, a zone called downstairs and I can group all my downstairs zones into this? Then I don't have to keep manually linking/unlinking multiple zones every time. Please." Do you see that?

A. Yes.

Q. So, again, this virtual zone where you have a downstairs zone that is saved for future use so you don't have to manually link it and unlink it, that was describing your idea for zone scenes; correct?

A. Yes. But, I mean, without much detail. But, yes, that --that -- broadly speaking.

Transcript at 549:24-550:10

7

One Of Mr. Lambourne's "Solutions" For Zone Scene Was "Macros"

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. Okay. So just big picture, you agree with me that ==macros can be thought as programming instructions==; correct?

A. Big picture, ==yes==.

Q. Okay. And big picture, you could, in your mind, as a UI designer or user interface designer, ==you could use macros to implement zone scenes; correct==?

A. From a user perspective is the way ==I was describing macros in the notepad, yes. That was one word I had for it==.

Transcript at 531:15-22

8

Prior Art Sonos Forum Posts Disclosed
Implementing Overlapping Zone Scenes Using "Macros"

SONOS

Robert Lambourne

'885, '966 Patents Inventor

Q. So people were suggesting ideas how to use macros and presets to improve upon the Sonos 2005 prior art system from their perspective; correct?

A. Yes.

* * *

Q. So if I was in summer, I could set up my summer Party Mode and then I could set up a winter Party Mode that would be saved for later use; correct?

A.   Yes.

Q. Again, that's consistent with the examples that you gave in your patents of zone scenes; correct?

A.   There can be more than one setup, yes.

Transcript at 538:4-539:4

9

Prior Art Sonos Forum Posts Disclosed
Implementing Overlapping Zone Scenes Using "Macros"

kengreenwood Contributor III · 75 replies   17 years ago

I would find this functionality useful as well... I find myself manually linking and unlinkin 22 September 2005
setting volumes in a very repetitive way. I would think that a macro type function would be able to
save those manual steps into a single selection of a favorite.

👍 Like   💬 Quote   •••

TX3930 at 2

Prior Art Sonos Forum Posts Disclosed
Implementing Overlapping Zone Scenes Using "Macros"

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. So Mr. Greenwood, in this prior public posting about the Sonos 2005 system, was describing the same type of problem that you were trying to solve with zone scenes and suggesting macros, which is a similar solution to what you had in mind for that functionality; correct?

A. In broad terms, yes. As an outcome, yes.

Transcript at 541:2-7

11

Squeezebox Prior Art _Also_ Disclosed Storing Overlapping Zone Scenes
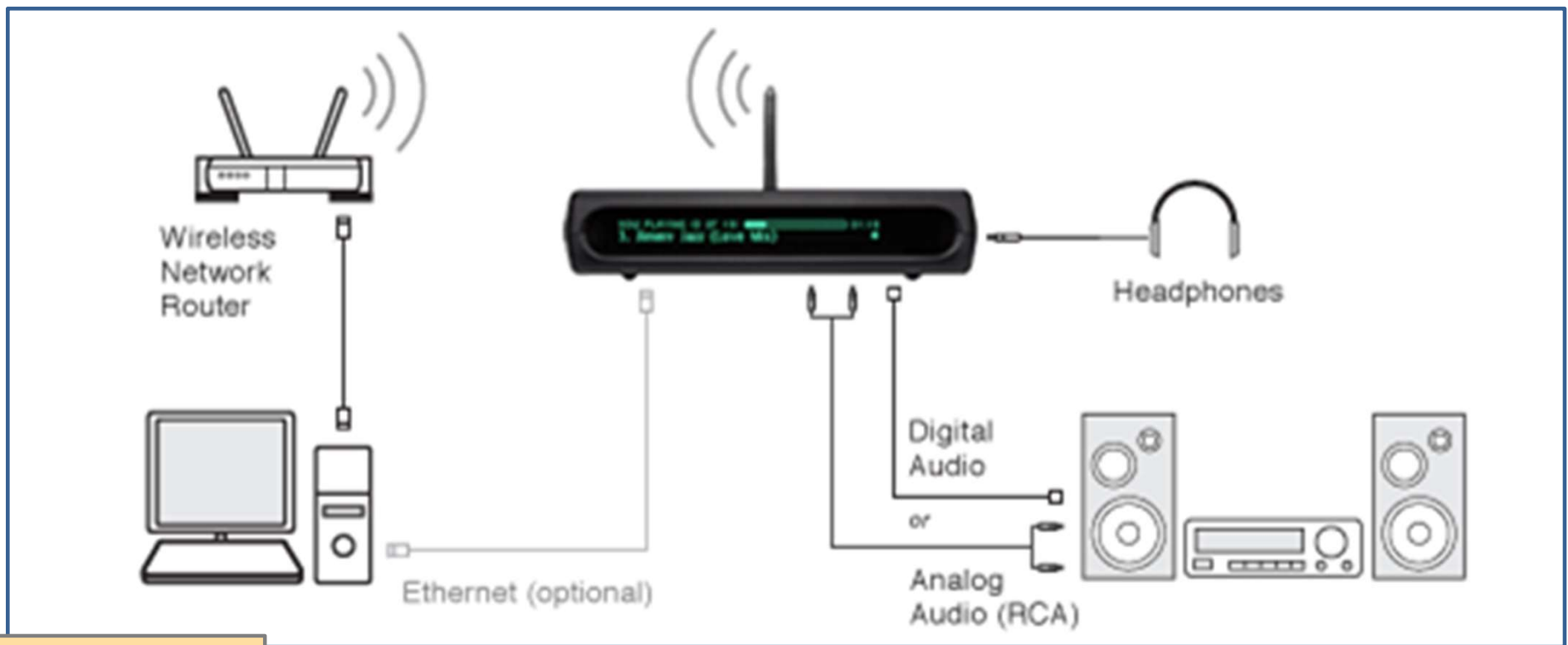
TX3808 at 61

Squeezebox Prior Art *Also* Disclosed Storing Overlapping Zone Scenes

Dan Schonfeld
Technical Expert

player1 + player3 Scene

```
[vmuser@slimserver2 ~]$ grep -P 'playername|syncgroup|syncPower|power|
/etc/slimserver.conf
19:1e:67:04:72:30-playername - player2
19:1e:67:04:72:30-power = 0
19:1e:67:04:72:30-syncPower = 0
bc:2a:ae:6b:ab:ce-playername - player3
bc:2a:ae:6b:ab:ce-power = 0
bc:2a:ae:6b:ab:ce-syncPower = 0
bc:2a:ae:6b:ab:ce-syncgroupid = 361890235
db:3a:52:e6:70:6b-playername = player1
db:3a:52:e6:70:6b-power - 1
db:3a:52:e6:70:6b-syncPower = 0
db:3a:52:e6:70:6b-syncgroupid = 361890235
```

player1 + player2 Scene

```
[vmuser@slimserver1 ~]$ grep -P 'playername|syncg
/etc/slimserver.conf
19:1e:67:04:72:30-playername = player2
19:1e:67:04:72:30-power = 0
19:1e:67:04:72:30-syncPower = 0
19:1e:67:04:72:30-syncgroupid - 675042355
bc:2a:ae:6b:ab:ce-playername = player3
bc:2a:ae:6b:ab:ce-power = 0
bc:2a:ae:6b:ab:ce-syncPower = 0
db:3a:52:e6:70:6b-playername = player1
db:3a:52:e6:70:6b-power = 1
db:3a:52:e6:70:6b-syncPower = 0
3a:52:e6:70:6b-syncgroupid = 675042355
```

player1

361890235

player1

675042355

See Transcript at 1449:19-1450:19

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Squeezebox Prior Art *Also* Disclosed Storing Overlapping Zone Scenes

Dan Schonfeld
Technical Expert

Q. So just help us understand what you were doing. Is this an accurate depiction of the testing that you did without modifying any of the source code for the Squeezebox system?

A. That's correct. It's -- I actually ran their software directly, and I just simply ran it and created these two overlapping groups.

Q. And are those two overlapping groups zone scenes as you have been discussing in this case?

A. Yeah, they are zone scenes. Their name is Player 1 plus Player 2, but they are zone groups that are previously saved and provide the information about all of the grouping.

Transcript at 1449:5-15

14

Squeezebox Prior Art _Also_ Disclosed Storing Overlapping Zone Scenes

Dan Schonfeld
Technical Expert

Q. So what we see here is Player 1, that's one speaker or zone player, belonging to two different overlapping zone scenes; is that correct?

A. That's correct.

Q. And I think you mentioned before with this, the Squeezebox system, you could also change the name of the speakers; right? You could go from Player 1 to upstairs and give it any other name you wanted?

A. I believe that's correct.

Transcript at 1450:16-24

15

Dr. Almeroth Had No Rebuttal Regarding
The Teachings And Disclosures From Squeezebox

Kevin Almeroth
Technical Expert

Sonos Incorrectly Argues "The Jury Could Have Discounted Dr. Schonfeld's Opinions About Squeezebox"

standalone mode." Google Br. at 9-10. The jury could have discounted Dr. Schonfeld's opinions about Squeezebox because he admitted that he did not test a single Squeezebox with firmware "that was released prior to the priority date for the '885 patent."[3] Tr. at 1482:18-20; *see also* Dkt.

Sonos Opp. at 6

Dr. Schonfeld Proved Squeezebox Product Capabilities Using Prior Art Softsqueeze and Slimserver Software

Dr. Schonfeld Presented _Unrebutted_ Testimony Establishing Reliability of Softsqueeze and Squeezebox Prior Art Testing

Dan Schonfeld
Technical Expert

Q.   There were some exchanges between you and Counsel about this Softsqueeze software that you actually operated?

A.   That's right.

Q.   Number one, is the software prior art?

A.   The software is prior art, yes.

Transcript at 1505:25-1507:11

18

Dr. Schonfeld Presented _Unrebutted_ Testimony Establishing Reliability of Softsqueeze and Squeezebox Prior Art Testing

Dan Schonfeld
Technical Expert

A.   Okay. So in terms of the actual executable code, I ran both the SlimServer and Softsqueeze, which is -- are the Squeezebox terminals, and I ran them in something called a virtual machine. It's basically a time warp. It's software that puts it in an environment where you create a computer that is from that time period.

     So I chose a virtual machine from that time period called VMware. I put the software inside. I put an operating system inside the virtual machine, Fedora software from that time period, and created the complete environment that is as if I lived in 2005 from the point of view of the software.

Transcript at 1505:25-1507:11

19

Dr. Schonfeld Presented _Unrebutted_ Testimony Establishing Reliability of Softsqueeze and Squeezebox Prior Art Testing

Dan Schonfeld
Technical Expert

Q.   Is that a reliable way from an engineering standpoint to try to understand how the system operated back in 2005 time period?

A.   Absolutely.

No _Daubert_ Challenge
No Rebuttal by Dr. Almeroth
Thus, No Reasonable Jury Would Have Discounted

Transcript at 1505:25-1507:11

20

Sonos's Cross of Dr. Schonfeld Regarding Lack of Evidence of *Prior Use* is Irrelevant Because Sonos Argues Claims Are Directed to *Capability*

Dan Schonfeld
Technical Expert

Q.   Sir, you were not aware of anyone who at the relevant time linked multiple virtual servers up together in order to create this kind of a system; correct?

A.   I think -- I'm aware of creating multiple servers, but not necessarily for this particular way of doing it. I would agree with that.
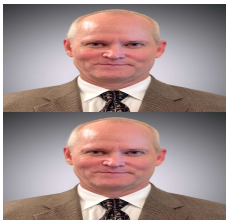
Kevin Almeroth
Technical Expert

Q.   And it's also your opinion for both of these claims, the claim 1 of the '966 patent and claim 1 of the '885 patent, that you don't actually have to perform the functions that are stated in order to meet the claim language; is that correct?

A.   That's correct. As long as you have the programming with that capability, this is not a method claim that requires actually performing the steps.

Transcript at 1485:24-1486:4 (Schonfeld), 860:15-860:21 (Almeroth)

Sonos Incorrectly Argues That The Patent Office "Considered" Squeezebox

Moreover, the examiner considered both the Squeezebox System and Nourse, among other references, before issuing both the '996 and the '885 patents. Tr. at 1488:1-1490:5. The burden of showing invalidity "is especially difficult" to meet "when the prior art was before the PTO examiner during prosecution of the application." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1467 (Fed. Cir. 1990). Google did not meet that burden here.

Sonos Opp. at 7

INCORRECT – Squeezebox Software and Products Were Not Considered by Patent Office

22

Dr. Schonfeld Presented _Unrebutted_ Testimony Establishing That The Patent Office Did Not Consider The Squeezebox Software or Code

Dan Schonfeld
Technical Expert

Q. The Logitech SlimServer; right? That's the -- that's the server for the Squeezebox system that was in front of the examiner?

A. Not exactly. A reference to the -- to a page was there but just the page.

Q. Okay. Well, sir, you see there were these other three documents were all there?

A. I do see the listing of those documents.

Q. Okay. Including the Logitech SlimServer Version 2.3 Release 19 May 2002, he had two pages from that as well?

A. Yeah. It's just a listing but it's not the actual code, but I see it listed.

Transcript at 1489:8-19

23

Sonos Incorrectly Argues Party Mode Was Not a Zone Scene Because It Was Not "Previously Saved"

Google's obviousness arguments all depend on its contention that Party Mode in the Sonos 2005 System was a zone scene. Google relied on the Party Mode feature to teach zone scenes themselves and to teach the limitations of creating, saving, and invoking a zone scene in the asserted claims. Party Mode was not a zone scene because (1) it was not previously saved, and (2) it was simultaneously created and invoked—there was no separate step of invoking Party Mode. The jury could have found that Google failed to prove Party Mode had either or both of those features and thus rejected Google's obviousness arguments.

Sonos Opp. at 2

INCORRECT – PARTY MODE WAS SAVED IN SONOS 2005

24

Sonos Incorrectly Argues Party Mode Was Not a Zone Scene Because It "Would Be Lost" When User "Changed The Grouping"

As Mr. Lambourne testified, the zone groups in Sonos's 2005 system "would remain in existence until the user decided to do something else," and so, "if you went away for a few days with the two rooms grouped together and came back, they would still be grouped together," but as soon as you changed the grouping, the group would be lost and had to be recreated to use it again.   Tr. 418:9-419:6 (emphases added).   That is a basic difference between static groups (e.g., zone scenes) and dynamic groups (e.g., party mode), and there is no substantive dispute that Google's speaker groups are static groups.

Sonos Reply (Dkt. 842) at 3

INCORRECT – PARTY MODE
DOES NOT GO AWAY

Party Mode Was A Previously Saved, "Hard-Coded" Feature In Sonos 2005

SONOS

Robert Lambourne

'885, '966 Patents Inventor

6. As part of this ad-hoc grouping technology, Sonos's controller interface also included an "All Zones-Party Mode" option, which was hard-coded into Sonos Controllers (and the Desktop Controller software) and allowed a user to create an-hoc "zone group" comprising all of the ZonePlayers in the user's system with a single touch rather than requiring the user to select each of the ZonePlayers one at a time.

7. This ad-hoc grouping technology is described in the April 2005 User Guide for the Sonos Digital Music System (SONOS-SVG2-00227441 - SONOS-SVG2-00227554):

Zone groups

Two or more zones can be grouped together to form a zone group, which allows you to play the same music across zones. You can also link all the ZonePlayers in your house with one touch by selecting **All Zones-Party Mode.** You can add and drop zones from a zone group while your music is playing.

TX3923 (Lambourne Decl.); *see also* Transcript at 1383:7-1384:14

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Party Mode Was A Previously Saved, "Hard-Coded" Feature In Sonos 2005

[All Zones – Party Mode]
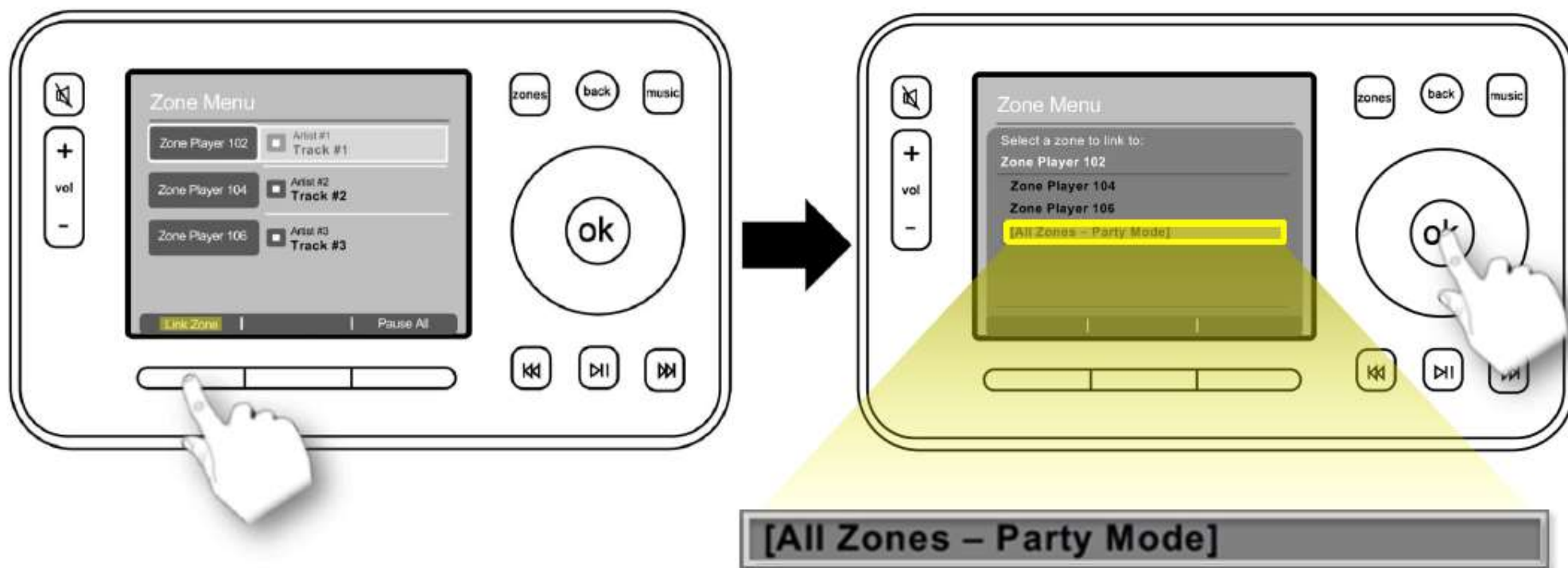
DDX10.50; *see also* Transcript at 1505:10-17

Party Mode Was A Previously Saved, "Hard-Coded" Feature In Sonos 2005

SONOS

**Robert
Lambourne**
**'885, '966 Patents
Inventor**

Q. At that time **when I wake up and I push the Party Mode button in the Sonos 2005 system, all the speakers in the house would be linked together, and somewhere in the system that information is saved**; correct?

A. **Yes**. The system knows that those players are together.

Transcript at 504:20-25

28

Party Mode Was A Previously Saved, "Hard-Coded" Feature In Sonos 2005 – And Included A Previously Saved Listing Of All Players In The Party Mode

SONOS

Nick Millington
Sonos's Chief Innovation Officer

Q. Okay. So there's -- let me get this straight. There's a ZonePlayer in the system that has this **topology information which includes an identification of all the other players in the system**; correct?

A. Every ZonePlayer has that information. So you said "a ZonePlayer." I just want to clarify that **every ZonePlayer has its own copy of the zone group topology**.

THE COURT: So **every ZonePlayer in the system, which could be, say, a dozen, has the identical list of ZonePlayers in the system**?

THE WITNESS: That's generally correct, **yes**.

Transcript at 348:10-20

29

Sonos 2005 Party Mode Was a Previously Saved Grouping of Zone Players

Dan Schonfeld
Technical Expert

Q. So what did Mr. Lambourne say about the All Zones-Party Mode that was part of the Sonos 2005 prior art system?

A. Well, he said the fact that the All Zones-Party Mode is hardcoded, that's what I was referring to as being previously defined in the software, ...

Q. And is the Party Mode -- in the Party Mode, is the membership information about that Party Mode previously saved before you invoke it?

A. Yes. As part of that code, it refers to all of the ZonePlayers, and those ZonePlayer identifiers are sitting on the -- on the controller in memory as part of the grouped [topology] that it obtains when it just starts up the computer -- the entire system.

Transcript at 1384:2-1384:14, 1382:2-9

30

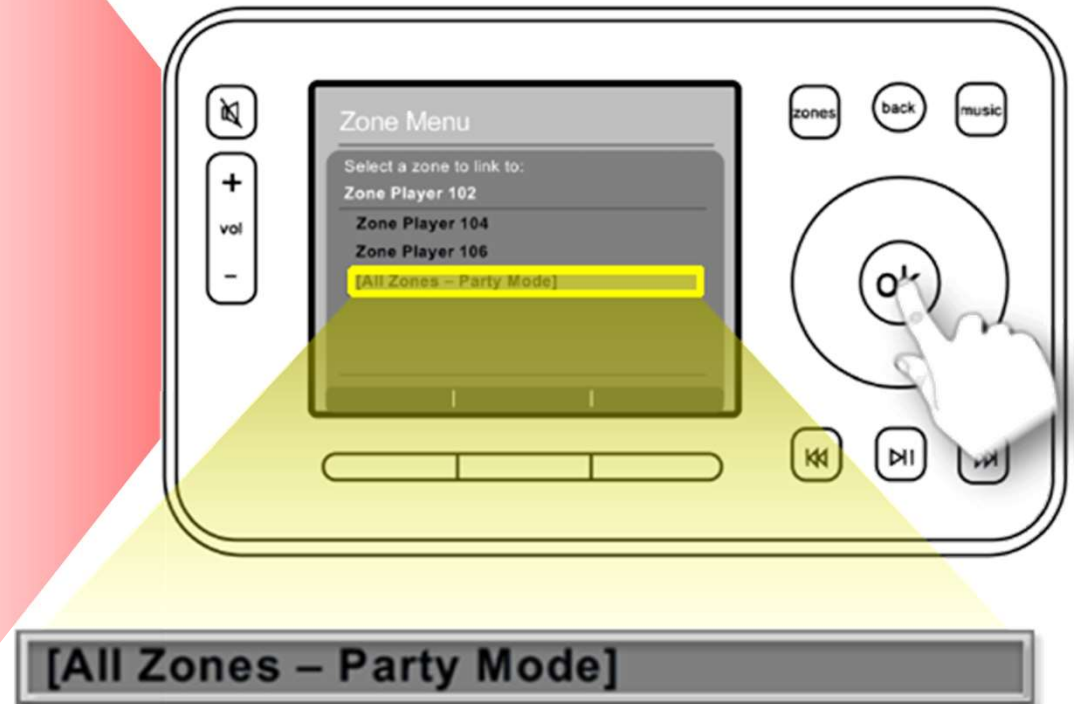## Sonos 2005 Party Mode Was a Previously Saved Grouping of Zone Players

Zone Group Topology Identifying All Zone Players in Party Mode Group Saved At Bootup

+

Hard Coded Party Mode Feature

=

Previously Saved Grouping of Zone Players According to a Common Theme – *i.e.*, Zone Scene

Zone Menu

Select a zone to link to:
Zone Player 102
Zone Player 104
Zone Player 106
[All Zones – Party Mode]

[All Zones – Party Mode]

Sonos Incorrectly Argues Party Mode Was Not a Zone Scene Because "There Was No Separate Step of Invoking"

Google's obviousness arguments all depend on its contention that Party Mode in the Sonos 2005 System was a zone scene. Google relied on the Party Mode feature to teach zone scenes themselves and to teach the limitations of creating, saving, and invoking a zone scene in the asserted claims. Party Mode was not a zone scene because (1) it was not previously saved, and (2) it was simultaneously created and invoked—there was no separate step of invoking Party Mode. The jury could have found that Google failed to prove Party Mode had either or both of those features and thus rejected Google's obviousness arguments.

Sonos Opp. at 2

INCORRECT – PARTY MODE HAD SEPARATE INDICATION AND INSTRUCTION TO OPERATE AS A GROUP

The Asserted Claims Do Not Specify Time Between Creation and Invocation

1. A first zone player comprising:
a network interface that is configured to communicatively
   couple the first zone player to at least one data network;
one or more processors;
a non-transitory computer-readable medium; and
program instructions stored on the non-transitory com-
   puter-readable medium that, when executed by the one
   or more processors, cause the first zone player to
   perform functions comprising:
while operating in a standalone mode in which the first
   zone player is configured to play back media indi-
   vidually in a networked media playback system
   comprising the first zone player and at least two
   other zone players:
   (i) receiving, from a network device over a data
   network, a first indication that the first zone player
   has been added to a first zone scene comprising a
   first predefined grouping of zone players including
   at least the first zone player and a second zone
   player that are to be configured for synchronous
   playback of media when the first zone scene is
   invoked; and
   (ii) receiving, from the network device over the data
   network, a second indication that the first zone
   player has been added to a second zone scene
   comprising a second predefined grouping of zone
   players including at least the first zone player and
   a third zone player that are to be configured for
   synchronous playback of media when the second
   zone scene is invoked, wherein the second zone
   player is different than the third zone player;

after receiving the first and second indications, continuing
   to operate in the standalone mode until a given one of
   the first and second zone scenes has been selected for
   invocation;
after the given one of the first and second zone scenes has
   been selected for invocation, receiving, from the net-
   work device over the data network, an instruction to
   operate in accordance with a given one of the first and
   second zone scenes respectively comprising a given
   one of the first and second predefined groupings of
   zone players; and
based on the instruction, transitioning from operating in
   the standalone mode to operating in accordance with
   the given one of the first and second predefined group-
   ings of zone players such that the first zone player is
   configured to coordinate with at least one other zone
   player in the given one of the first and second pre-
   defined groupings of zone players over a data network

No specific amount of time required between indication and invocation

According to another aspect of the present invention, the scene may be activated at any time or a specific time. A user

'885 Patent at 2:46-51

33

Regardless, Dr. Schonfeld's _Unrebutted_ Testimony Established That Party Mode Indications and "Operation in Accordance With" Are Not Simultaneous

Dan Schonfeld
Technical Expert

Q. We heard Dr. Almeroth suggest that the Party Mode in Sonos 2005 prior art system does not meet the zone scene definition because it is created and invoked around the same time. Did you hear that testimony?

A. I did, yes.

Q. Do you agree or disagree with that?

A. Well, I disagree with his opinion; but even if I accept his opinion, it is still not done exactly at the same time because once you receive the set AVTransport URI message, you still -- after that point, you have to send an AddMember message, and there is a whole sequence of -- of exchanges that take place before you are invoked to what Dr. Almeroth calls invoke. And the claim does not -- it just simply says after. The patent specification says it could be at any time. So even if you accept Dr. Almeroth's view, it would still meet the zone scene understanding.

Transcript at 1713:9-1713:24

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The Asserted Claims Do Not Recite a Separate Instruction to Invoke

1. A first zone player comprising:
a network interface that is configured to communicatively
   couple the first zone player to at least one data network;
one or more processors;
a non-transitory computer-readable medium; and
program instructions stored on the non-transitory com-
   puter-readable medium that, when executed by the one
   or more processors, cause the first zone player to
   perform functions comprising:
   while operating in a standalone mode in which the first
      zone player is configured to play back media indi-
      vidually in a networked media playback system
      comprising the first zone player and at least two
      other zone players:
      (i) receiving, from a network device over a data
         network, a first indication that the first zone player
         has been added to a first zone scene comprising a
         first predefined grouping of zone players including
         at least the first zone player and a second zone
         player that are to be configured for synchronous
         playback of media when the first zone scene is
         invoked; and
      (ii) receiving, from the network device over the data
         network, a second indication that the first zone
         player has been added to a second zone scene
         comprising a second predefined grouping of zone
         players including at least the first zone player and
         a third zone player that are to be configured for
         synchronous playback of media when the second
         zone scene is invoked, wherein the second zone
         player is different than the third zone player;

after receiving the first and second indications, continuing
   to operate in the standalone mode until a given one of
   the first and second zone scenes has been selected for
   invocation;
after the given one of the first and second zone scenes has
   been selected for invocation, receiving, from the net-
   work device over the data network, an instruction to
   operate in accordance with a given one of the first and
   second zone scenes respectively comprising a given
   one of the first and second predefined groupings of
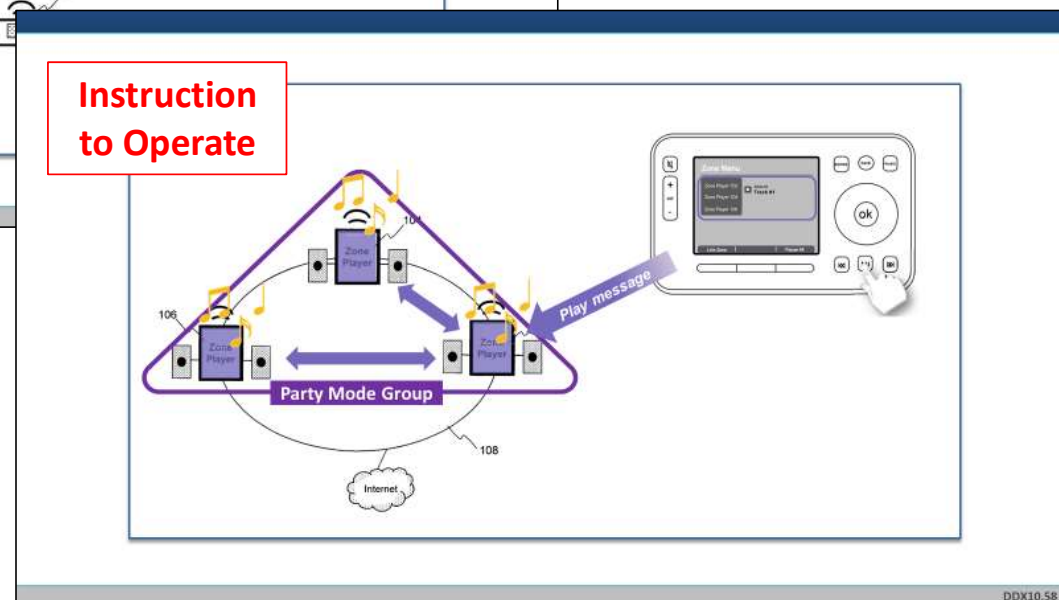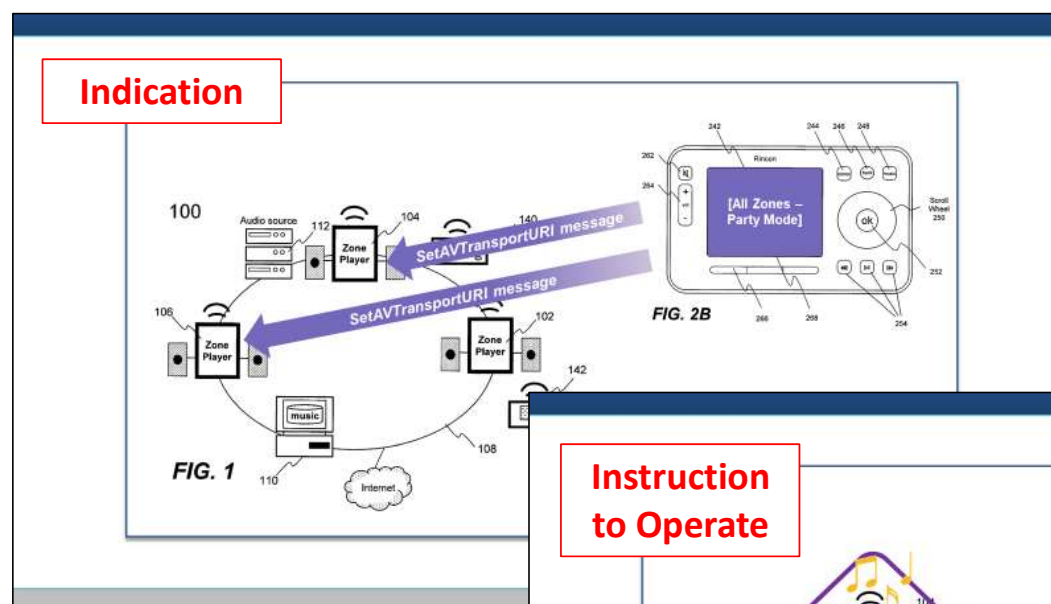   zone players; and
based on the instruction, transitioning from operating in
   the standalone mode to operating in accordance with
   the given one of the first and second predefined group-
   ings of zone players such that the first zone player is
   configured to coordinate with at least one other zone
   player in the given one of the first and second pre-
   defined groupings of zone players over a data network
   in order to output media in synchrony with output of
   media by the at least one other zone player in the given
   one of the first and second predefined groupings of
   zone players.

**No separate instruction to invoke –
only "an instruction _to operate_ in
accordance with" zone scene**

Dr. Schonfeld Showed Separate Indication and "Instruction to Operate" Steps

Dan Schonfeld
Technical Expert

DDX10.53, 58 (annotation added)

36

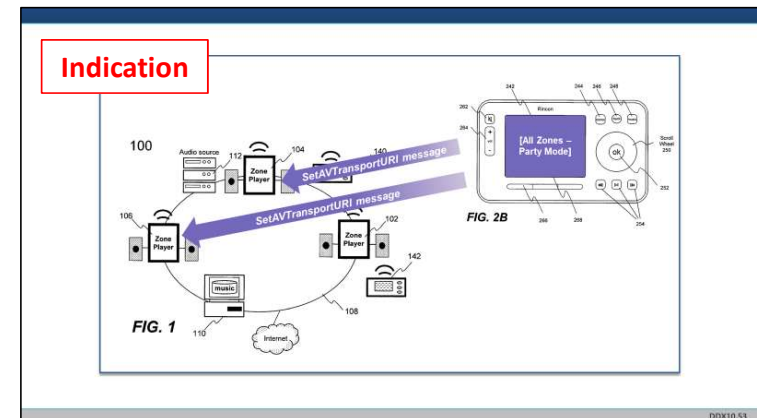# Dr. Schonfeld Showed Separate Indication and "Instruction to Operate" Steps

Dan Schonfeld
Technical Expert

Q. And what is a set AVTransport URI message that is being
   sent from the controller down to ZonePlayer 104?
A. So when I choose to -- when I want to group two rooms
   together, let's say two ZonePlayers together, I go to one of
   them. In this case I want went into ZonePlayer 102 and then I
   said "Link it with ZonePlayer 104." And then the system
   generates a message called a set AVTransport URI message, which
   is received by ZonePlayer 104. And that's an indication that
   it should be part of a group.
Q. And does that indication message
   satisfy the indication-related
   limitations of the claims at issue
   in this case?
A. It does.

Indication

FIG. 2B

FIG. 1

Transcript at 1378:7-1381:4, 1386:15-1388:4

# Dr. Schonfeld Showed Separate Indication and "Instruction to Operate" Steps

Dan Schonfeld
Technical Expert

Q. What are you showing here?

A. So this a -- in the previous slide you saw in the right-hand corner a little tiny screen. This is essentially a larger version of it, and it shows the display on the controller which shows that the kitchen ZonePlayer corresponding to, let's say, ZonePlayer 102 is linked together with ZonePlayer 104, which is the patio, and now it's available for playing music in synchrony once you decide to invoke it.

So, for example, if there is a button that's not shown over here, it's on the controller on the right-hand side on the bottom, it's a "Play" button, if you press on it, it will send music to the coordinator which will then invoke the group for playing back music in synchrony.

Instruction to Operate

Transcript at 1378:7-1381:4, 1386:15-1388:4

38
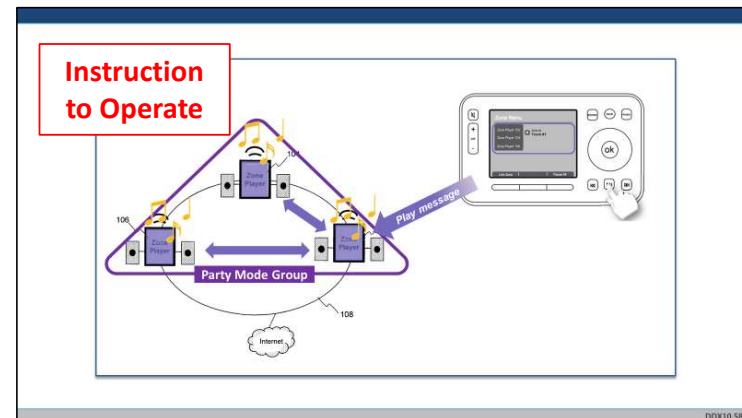
The Asserted Claims Do Not Require User for Creation or Invocation

1. A first zone player comprising:
a network interface that is configured to communicatively
   couple the first zone player to at least one data network;
one or more processors;
a non-transitory computer-readable medium; and
program instructions stored on the non-transitory com-
   puter-readable medium that, when executed by the one
   or more processors, cause the first zone player to
   perform functions comprising:
while operating in a standalone mode in which the first
   zone player is configured to play back media indi-
   vidually in a networked media playback system
   comprising the first zone player and at least two
   other zone players:
   (i) receiving, from a network device over a data
   network, a first indication that the first zone player
   has been added to a first zone scene comprising a
   first predefined grouping of zone players including
   at least the first zone player and a second zone
   player that are to be configured for synchronous
   playback of media when the first zone scene is
   invoked; and
   (ii) receiving, from the network device over the data
   network, a second indication that the first zone
   player has been added to a second zone scene
   comprising a second predefined grouping of zone
   players including at least the first zone player and
   a third zone player that are to be configured for
   synchronous playback of media when the second
   zone scene is invoked, wherein the second zone
   player is different than the third zone player;

after receiving the first and second indications, continuing
   to operate in the standalone mode until a given one of
   the first and second zone scenes has been selected for
   invocation;
after the given one of the first and second zone scenes has
   been selected for invocation, receiving, from the net-
   work device over the data network, an instruction to
   operate in accordance with a given one of the first and
   second zone scenes respectively comprising a given
   one of the first and second predefined groupings of
   zone players; and
based on the instruction, transitioning from operating in
   the standalone mode to operating in accordance with
   the given one of the first and second predefined group-
   ings of zone players such that the first zone player is
   configured to coordinate with at least one other zone
   player in the given one of the first and second pre-
   defined groupings of zone players over a data network
   in order to output media in synchrony with output of
   media by the at least one other zone player in the given
   one of the first and second predefined groupings of
   zone players.

No user required – zone scene can be pre-saved by the system

39

Sonos Incorrectly Argued That Zone Scenes Must be Created by a User

"zone scene" –
previously-saved grouping of zone players according to a common theme
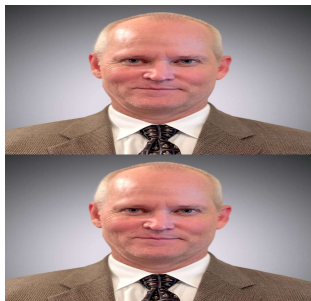
Kevin Almeroth
Technical Expert

Q.   . . . Why is the Party Mode option from Sonos' 2005 system not a zone scene?

A.   . . . And the reason why a Party Mode is not a zone scene is it's also not previously saved. The group membership for what the zone scene is doesn't exist.   And then it's also not customizable by a user. It's all the zones that would exist in the scene -- sorry -- in the system at the same time, and so the user can't add or customize what that Party Mode is.

Transcript at 1659:21-1660:5

40

Claim Construction – No User Required to Create Zone Scenes

"zone scene" –
previously-saved grouping of zone players according to a common theme

SONOS

**Robert
Lambourne**
**'885, '966 Patents
Inventor**

Q. But you do know, having read the claims, that it does not specifically and explicitly state that the user must create the zone scenes; correct?

A. Again, I don't see the word "user" or "system" in there, so it doesn't specify.

Transcript at 480:21-25

41

Claim Construction – No User Required to Create Zone Scenes

"zone scene" –
previously-saved grouping of zone players according to a common theme

SONOS

**Robert
Lambourne**
**'885, '966 Patents
Inventor**

Q. His Honor's instruction to the jury of what a zone scene means does not require the user to save the zone scene; correct?

A. I don't think I heard the word "user" in His Honor's words, no.

Transcript at 509:19-23

42

Motivation To Combine

Google Proved That There Was A Motivation To Combine Sonos 2005 With Sonos Forums

Dan Schonfeld
Technical Expert

Q. Okay. And just right off the bat, would it have been obvious to those skilled in the art back in 2005 when they looked at the Sonos 2005 system and also looked at the forum postings about that system to make a combination in their mind?

A. Yeah, absolutely. The Sonos forum was posting of people who were interested -- users, dealers who were interested in the Sonos 2005 system, and they were making suggestions of how to modify the Sonos 2005 system to improve it.

Transcript at 1431:22-1432:4 (Sonos 2005 + Forums)

44

Motivation to Combine: Even The Inventor Of The Asserted Patents Looked To Sonos Forums For Ideas

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. During your design and development of zone scene technology, do you recall looking at comments on the Sonos forums?

A. From time to time I looked at comments, yes.

***

Q. And you, as part of your job responsibilities at Sonos from 2004 to 2006 timeframe, you actually saw some of these Sonos postings on the forums; correct?

A. Yeah, yes.

Transcript at 466:19-22, 532:15-25

45

Motivation to Combine: Sonos Forums Described The Same Problem As The Asserted Patents And Disclosed The Same Zone Scenes Solution

kengreenwood Contributor III · 75 replies   17 years ago

I would find this functionality useful as well... I find myself manually linking and unlinkin 22 September 2005
setting volumes in a very repetitive way. I would think that a macro type function would be able to
save those manual steps into a single selection of a favorite.

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. So Mr. Greenwood, in this prior public posting about the Sonos 2005 system, was describing the same type of problem that you were trying to solve with zone scenes and suggesting macros, which is a similar solution to what you had in mind for that functionality; correct?

A. In broad terms, yes. As an outcome, yes.

Transcript at 541:2-7

46

Google Proved That There Was A Motivation To Combine Sonos 2005 With Squeezebox

Dan Schonfeld
Technical Expert

Q. So what is your opinion hearing all of that and your independent review on whether someone of ordinary skill in the art back in 2005 would have combined what was known in the Squeezebox system with the Sonos 2005 prior art system?

A. That they were competitors back then. They were trying to do the same type of system. They would have looked into each other's system and tried to see what the competitor is doing and they did.

Transcript at 1443:1-8 (Sonos 2005 + Squeezebox)

47

Motivation to Combine: Even Sonos Looked At Squeezebox To Assess Speaker Grouping In Designing The Sonos 2005 Prior Art System

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. Yeah. But here you were in November of 2003 trying to think about how to design the Sonos 2005 prior art system, and you were listing a number of products here. Do you see that?

A. Yes.

Q. One of the products you listed was Squeezebox; correct?

A. Yes.

Transcript at 556:15-22, 560:15-566:18

Motivation to Combine: Even Sonos Looked At Squeezebox To Assess Speaker Grouping In Designing The Sonos 2005 Prior Art System

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. So yesterday we were talking about the acquisition and testing of the Squeezebox devices. Do you recall that?

A. Yes.

Q. That was done by [Sonos employee] Mr. Hainsworth, and he described the results of his testing. Do you recall that?

A. Yes.

Q. And we walked through -- I was able to set it up, use it, and tested some of the grouping functionality in that technology. Do you recall that?

A. Yes.

Transcript at 600:18-601:2

49

Google's Prior Art References Disclosed Known Ways To Address The Same Problems Using The Same Solutions As The Asserted Patents

"Intel asserted that a person of ordinary skill would have been motivated to combine Kabemoto and Bauman because they 'relate to the same field of multiprocessor ... Systems' and 'address the same problem: maintaining cache coherency.' … **That Kabemoto and Bauman address the same problem and that Bauman's cache was a known way to address that problem is precisely the reason that there's a motivation to combine** under KSR and our precedent."

Intel Corp. v. PACT XPP Schweiz AG, 61 F. 4th 1373, 1380 (Fed. Cir. 2023)

50

Reasonable Expectation / Enablement

The Sole Named Inventor Is Not A Computer Engineer And Has Never Written Source Code

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. Okay. You mentioned a degree in design and technology. Can you explain a little bit more what that is?

A. Yes. It's a degree in product design sometimes called industrial design. At other universities that run similar course it is sometimes referred to as industrial design engineering. My university called it design and technology.

* * *

Q. You have never written source code for any Sonos product; correct?

A. Correct.

Transcript at 406:11-25, 530:7-11

52

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

Dan Schonfeld
Technical Expert

Q. How difficult would it have been back in 2005 timeframe to a person of ordinary skill in the art to make the modification of saving one of the extra groups that was provided for in that system?

A. It would be a trivial step in my view, and I can explain why... we're talking about saving it for later and if you remember yesterday, I said you need two things: One is to continue to operate as you are now until you need it later; and when you do need it later, you have to make sure it's available. So all you have to do is, if you remember yesterday, I said that there is a channel that has to be shifted from the local playlist to the external playlist, you just move the same code in response to the play message instead of the set AVTransport URI message; and then the same -- the same information that was saved already in persistent memory on the coordinator, the only difference you just keep instead of discarding it when you no longer -- when you are done working with a particular zone group just like you would for the Party Mode. So these are two very simple step.

Transcript at 1423:22-1424:25 (Sonos 2005 in view of POSITA)

53

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

Dan Schonfeld
Technical Expert

Q. So given your and Dr. Almeroth's description of a person of ordinary skill in the art, somebody who has an engineering degree in the relevant field, two to four years of experience, how difficult would it be for that person -- would it have been for that person back in 2005 to make the simple modifications that you were just describing?

A. In my opinion, it would have been a trivial exercise to do. You are just shifting one code and not discarding the identifiers. That's a very simple operation to do in the code.

Transcript at 1424:25-1425:2 (Sonos 2005 in view of POSITA)

54

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

Dan Schonfeld
Technical Expert

Q. So you've already shown us this slide of what actually existed in the Sonos 2005 prior art system; but for the jury to understand, a person of ordinary skill in the art back in 2005 could make the modification -- would it have been obvious to make the modification that you talked about to save the first zone group here for later? Is that your testimony?

A. It is my testimony. The moment you just decide that that's what you want to do, you can do it immediately.

Transcript at 1425:5-18 (Sonos 2005 in view of POSITA)

55

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

F floras_dad Lyricist III · 20 replies   17 years ago

Great idea. A macro-like scripter would enable you to set groups of zones, associate pl 27 September 2005
volumes, etc. You could do these as dynamic "presets" based on the Party Mode--which the spouse
would love--like Entertaining, Romantic Dinner, Ambiance, etc.

This is a great like-to-have.

TX3928 at 3

Dan Schonfeld
Technical Expert

Q.   What was Mr. Floras Dad saying about the problem and solution of the patents in suit?

A.   So in this particular post Floras Dad is excited about the idea for the two overlapping zone groups, and he says: Here is how we can do it. We can have those presets, which means that they are saved, and then we can write a macro-like scripter to allow it to be used when we want so it can play individually when we want it and then just activate all of the -- all of the zones together when we want to play in the same scene. And then in addition on the bottom, he's suggesting other themes, like entertaining, romantic dinner, and so on.

Transcript at 1434:16-1435:2 (Sonos 2005 + forums)

56

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

Dan Schonfeld
Technical Expert

Q. So we have Mr. Lambourne's testimony, we have your independent review, and let's take a look at one more critical piece of testimony from the inventor, Mr. Lambourne, which is at page 541, 2 through 7. He was asked (as read): "So Mr. Greenwood, in this prior public posting about the Sonos 2005 system, was describing the same type of problem that you were trying to solve with zone scenes and suggesting macros, which is a similar solution to what you had in mind for that functionality; correct?"

Answer (as read): "In broad terms, yes. As an outcome, yes."

That was the sworn testimony that you heard from Mr. Lambourne; correct?

A.   That is correct.

Q.   And based on your independent review of all of the evidence, do you agree with Mr. Lambourne's testimony about the Sonos prior art forums combined with Sonos 2005 system?

A.   I do agree, yes.

Transcript at 1436:17-1437:9 (Sonos 2005 + Forums)

57

Google Proved There Was An Expectation of Success in Modifying Sonos 2005

**Dan Schonfeld**
Technical Expert

Q. So how difficult would it have been for somebody to take these bits of information and store them for later use?

A. It's just a matter of storing in this case 64 bits. It's a trivial operation. Most type of computing devices have in the order of typically over 30 megabytes of data. Here we're talking about 16 bit per address. It's a trivial thing to do.

* * *

Q. And based on your review of the evidence on the Sonos 2005 prior art system, do they have that type of storage?

A. Absolutely. They have much more. They had to store all of the code, thousands of titles. This would have been a trivial change.
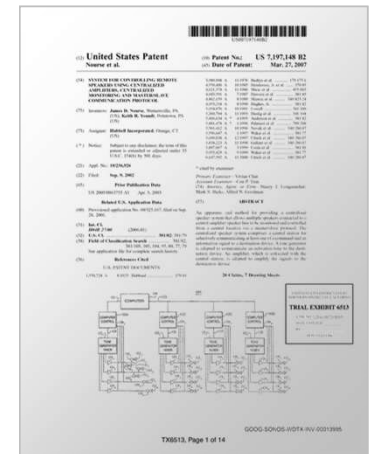
TX6513

Transcript at 1440:6-19 (Sonos 2005 + Nourse)

58

Dr. Almeroth Had No Opinion on Reasonable Expectation of Success; He Could Only Read His Expert Report Paragraph On Motivation to Combine

Kevin Almeroth
Technical Expert

THE WITNESS: (as read):

"I have also seen other Sonos forum posts contradicting Dr. Schonfeld's theory that a POSITA <mark>would have been motivated</mark> to replace Sonos' ad hoc zone group functionality with the claimed zone scene functionality in view of the identified user posts from the Sonos forums. For instance, as explained above, I have seen other user posts from the Sonos forums casting doubt as to how overlapping zone scenes would have worked in the Sonos' system.

"For example, even after the claimed conception date opposed from Majik on April 18th, 2006, suggests that there were concerns about potential side effects if" -- quote -- "zones can be allowed to be in more than one group.

"I have also seen evidence from other Sonos threads suggesting that even in 2016 users thought overlapping zone scenes would have been logically impossible to implement in Sonos' system.

"Given this skepticism, it is my opinion that a person of skill in the art would have been dissuaded from modifying the Sonos' 2005 system in view of the identified user posts from the Sonos forum."

Transcript at 1674:15-1675:12

59

The Level Of Disclosure In The Prior Art Exceeds That Of The Specification

"[T]he **Board's observation that <mark>appellant did not provide the type of detail in his specification that he now argues is necessary in prior art</mark>** references supports the Board's finding that <mark>one skilled in the art would have known how to implement the features</mark> of the references and would have concluded that the reference disclosures would have been enabling."

In re Epstein, 32 F.3d 1559, 1568 (Fed. Cir. 1994)

"The <mark>specification</mark> of the '593 patent <mark>is entirely silent</mark> on how to transmit user locations and maps from a server to a user's mobile device, <mark>suggesting that a person of ordinary skill in the art was more than capable of selecting between the known methods</mark> of accomplishing this."

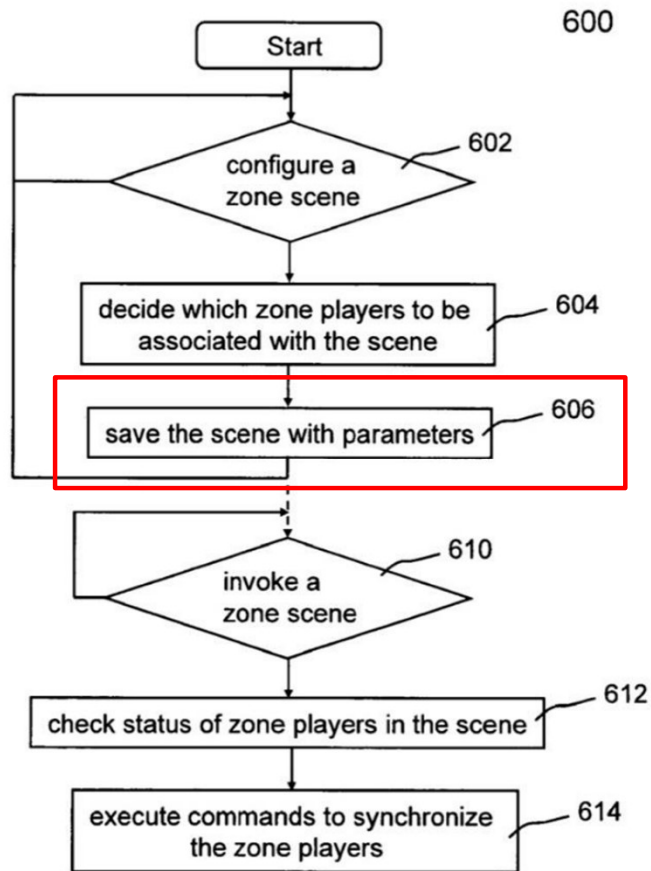*Uber Tech., Inc. v. X One, Inc.,* 957 F.3d 1334, 1349 (2020)

The Level Of Disclosure In The Prior Art Exceeds That Of The Specification

"**Publicover argues that Venable and Kiderman's disclosures are too sparse** to adequately explain to a skilled artisan how to modify Venable's system to identify vestibulo-ocular movement. **But as the examiner and Board correctly found, Publicover's specification is just as sparse** on how a system would identify this type of eye movement."

In re Publicover, 813 F. App'x 527, 532 (2020)

61

The Level Of Disclosure In The Prior Art Exceeds That Of The Specification

FIG. 6

600

Start

602 — configure a zone scene

604 — decide which zone players to be associated with the scene

606 — save the scene with parameters

610 — invoke a zone scene

612 — check status of zone players in the scene

614 — execute commands to synchronize the zone players

"Morning". The user may be given an interface to select four of the ten players to be associated with the scene. At **606**, the scene is saved. The scene may be saved in any one of the members in the scene. In the example of FIG. **1**, the scene is saved in one of the zone players and displayed on the controller **142**. In operation, a set of data pertaining to the

'885 Pat. 8:47-52.

together using one command. Using what is referred to herein as a theme or a zone scene, zones can be configured in a particular scene (e.g., morning, afternoon, or garden), where a predefined zone grouping and setting of attributes for the grouping are automatically effectuated.

'885 Pat. 8:47-52.

62

The Court Found Fig. 6's Disclosure of Saving For Later Sufficient to Teach Operating in "Standalone Mode" Until Later Invocation

FIG. 6
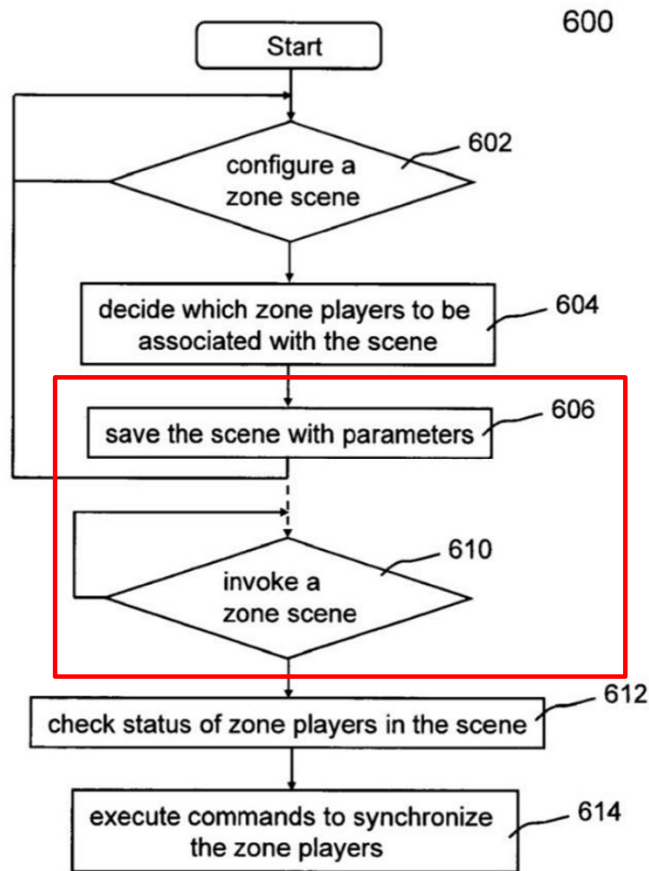
True, as Google repeatedly points out, the specification never expressly refers to the term "standalone mode." However, the specification does not have to use the term verbatim to provide sufficient disclosure. *See Ariad Pharms., Inc.*, 598 F.3d at 1352 (specification does not need to "recite the claimed invention *in haec verba*"); *Novartis Pharms. Corp. v. Accord Healthcare, Inc.*, 21 F.4th 1362, 1370 (Fed. Cir. 2022) ("literal description of every limitation" is not required). The disclosure need only "clearly allow persons of ordinary skill in the art to recognize that the inventor invented what is claimed." *Ariad Pharms., Inc.*, 598 F.3d at 1351.

The disclosure does so here. Figure 6 illustrates the process of forming and "invok[ing]" a zone scene:

The figure demonstrates that the process of forming a zone scene occurs in a specific order. The user "decide[s] which zone players to be associated with the scene" and then the scene is "[s]aved." Once a scene is saved, it can then be "invoke[d]" later. The specification further clarifies that zone players can be played "synchronously if the players are grouped together," or

Dkt. 309 (Showdown Order) at 16-17

Prior Art Sonos Forum Posts Contain At Least The Same Level of Disclosure of Saving Zone Scenes For Later Invocation

Macro / presets

16 years ago · 61 replies · 15122 views

22 September 2005

JeffT Trending Lyricist I · 20 replies

Just got the intro bundle, and I am impressed. I did a search and did not find this suggested, but I would save Zone links as favorites. With only 2 ZPs it is not a problem yet, but when I add more it maybe. I would like to setup say Morning mode for the units I want in the morning and a preset volume between the units. Another example I would have 2 party modes, Summer and Winter. The Summer mode would include the deck speakers and the Winter mode would not. Also it would be nice to have playlists or radio station associated with each mode. So when I get up I press Morning the DI Chill radio station plays.

Winter Party

Summer Party

TX3930 at 1

DDX10.70; see also Transcript at 1435:10-24

Prior Art Sonos Forum Posts Contain At Least The Same Level of Disclosure of Saving Zone Scenes For Later Invocation

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. What Jeff T, the user, was describing in a publicly available Sonos forum posting dated September 22nd, 2005, is having multiple zone scenes that are saved for later; correct?

A. Yes.

* * *

Q. And those zone scenes could be overlapping in that they would share a speaker or a ZonePlayer; correct?

A. Yes, and in the summer and winter mode he is describing, yes.

Transcript at 539:17-24

The Level Of Disclosure In The Prior Art Exceeds That Of The Specification

One important of the features, benefits and objects in the present invention is that that zones do not need to be separated before a zone scene is invoked. In one embodiment, a command is provided and links all zones in one step, if invoked. The command is in a form of a zone scene. After

'885 Patent at 9:16-20

Given a saved scene, a user may activate the scene at any time or set up a timer to activate the scene at 610. The process 600 can continue when a saved scene is activated at 610. At 612, upon the activation of a saved scene, the process 600 checks the status of the players associated with the scene. The status of the players means that each of the players shall be in condition to react in a synchronized manner. In one embodiment, the interconnections of the players are checked to make sure that the players communicate among themselves and/or with a controller if there is such a controller in the scene.

'885 Patent at 3:26-31

NO DETAILS REGARDING SPECIFIC PROGRAMMING INSTRUCTIONS OR STORAGE MECHANISMS

2016 Non-Prior Art Forum Posts Confirm Expectation of Success

johncanter Enthusiast II · 118 replies   6 years ago

> **jgatie wrote:**
>> **The Mekon wrote:**
>> Well that's easy - either just play on the speaker the most recent group selected, or throw an error when you try to play a group when that speaker is already in a different group that is playing. It doesn't really matter - it's not a situation that most people would configure, and so long as whatever method is consistent, who cares?
>
> As a software developer, I care. I support creating permanent groups. I do not support the illogical concept of a speaker belonging to more than one group. It's stupid.

Surely as a software developer you would know that if there is an 'illogical concept' then software can be programmed to deal with it.

In your example while Led Zeppelin is blaring out in Group A and the wife wants to play Chopin in Group B, it is simply greyed out and cannot be done. Speaker 3 would still be available to play Chopin or Group A virtual zone could be ungrouped and Group B would become available. It is not a difficult concept really.

TX6958 at 2

67

2016 Non-Prior Art Forum Posts Confirm Expectation of Success

ChewyWaffles · 1 reply   5 years ago

Wow. I'm greatly disappointed that this wasn't a basic feature right out of the gate. I just got my second Play1 and planned on getting a third to group them up in interesting ways, but I am rethinking this. This reeks of lack of competition that this hasn't been implemented.

👍 Like   99 Quote

TX6958 at 5

2006 Non-Prior Art Forum Posts Confirm Expectation of Success

Majik   15 years ago

. . .

Now this brings an interesting question: should zones be allowed to be in more than one group? If this is allowed, are there any unwanted side-effects with this?

Majik   15 years ago

I think it would be reasonable to limit it to, say, 32 zone groups.

Cheers,

Keith

TX2425 at 1, 4

69

Sonos Disputes The "Displaying" Zone Scenes Limitations In The '966 Patent

Sonos Forums Disclosed Displaying Zone Scenes Using Soft-Keys on Controller

Majik · 6113 replies   17 years ago

Yes this sounds good.   22 September 2005

Something like the ability to create a "zone group" which appears on the zone list, and perhaps the ability to hide/lock individual zones.

I'm not sure how the "Preset volume" and source/playlist would work in this context. You wouldn't necessarily want this activated every time you selected the zone group, or how would you select the group to change the volume, etc.?

Perhaps we need a "presets", page (perhaps using the soft-keys on the Zone screen) to allow a preset to be initiated. This preset could comprise a zone (or zone group), a volume profile, and a source or playlist, or it could be a macro sequence.

TX3928 at 2

71

The Sole Inventor Confirmed the Forums Disclosed Displaying Zone Scenes

SONOS

Robert Lambourne
'885, '966 Patents Inventor

Q. And then in the third paragraph he says, "Perhaps we need a presets page. Perhaps using the soft keys on the zone screen to allow a preset to be initiated." Do you see that?

A. Yes.

Q. And we saw some documents and your testimony referring to zone scenes also as presets; correct?

A. Yes.

* * *

Q. So Keith, user name Majik, was suggesting various ways that a preset for zone scenes could be implemented; correct?

A. Yes, on a broad level, yes.

Transcript at 548:8-17

Dr. Schonfeld Provided Evidence And Analysis On '966 Display Limitations

Dr. Dan Schonfeld
Expert Witness

Q. Were you showing us how the controller would display various zone groups or scenes, including All Zones-Party Mode, in the Sonos 2005 prior art system as part of your '885 presentation?

A. I did. I described exactly those issues in connection with these two slides.

Q. So is the evidence and analysis that you did for the '885 claim elements, do those things support your view that corresponding elements or additional elements like display limitations are satisfied for the '966 patent?

A. Yeah. The '885 claim limitations that I pointed to do support my analysis for the limitations of the claim 1 of the '966 patent and the other claims.

Transcript at 1505:12-24

73

The Party Mode Feature Was
Displayed In The Sonos 2005 Prior Art System

SONOS

**Nick
Millington**
Sonos's Chief
Innovation Officer

Q. So one of the things we talked about was All Zones-Party Mode being displayed to users. That was a feature that was implemented through the use of these programming instructions; correct, sir?

A. Correct.

Transcript at 398:1-5

74

The Party Mode Feature Was
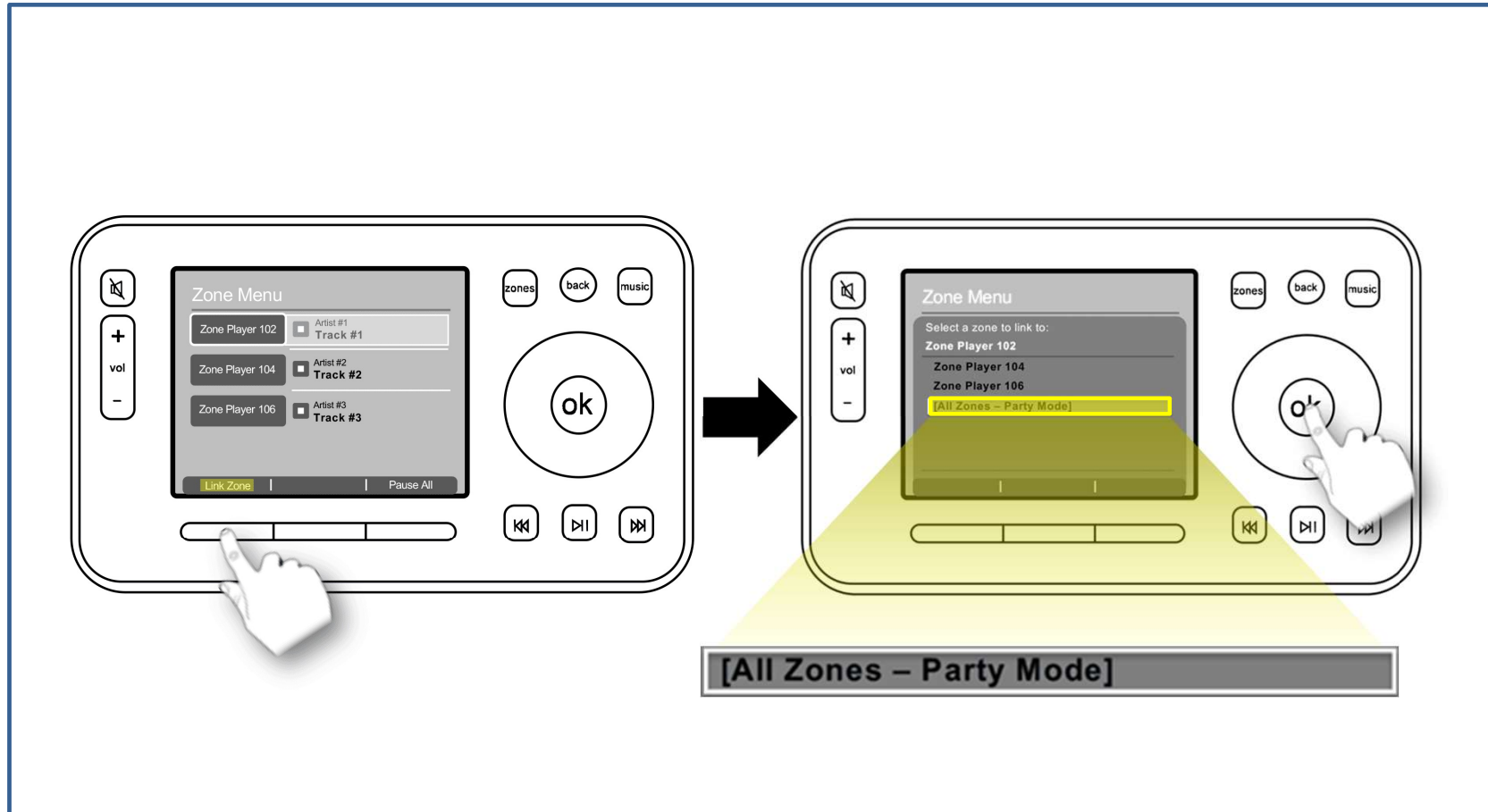# Displayed In The Sonos 2005 Prior Art System

Select zone where desired music is playing

Select zone to add to group

TX0063 at 4

75

The Party Mode Feature Was
Displayed In The Sonos 2005 Prior Art System

Dr. Schonfeld Provided _Unrebutted_ Testimony Regarding Display Of Zone Scenes In Squeezebox

Dr. Dan Schonfeld
Expert Witness

Q. So when you performed the testing of the Squeezebox and the Softsqueeze player, what were you able to find in terms of synchronization of the different groups?

A. Yeah, the Squeezebox system was designed to allow you to play to individual Squeezebox players or to synchronize multiple of them; and I was able to see the actual synchronization tab allow to build the synchronization group, and I actually played music in synchronized fashion from those multiple different speakers.

Q. And just can you read into the record the user interface screen that you saw when you tested the Squeezebox system?

A. Sure. It says (as read): "Synchronize. The player can be synchronized with other players enabling them to play the same music simultaneously. Choose the players you would like to synchronize with from the list of available synchronization groups."

Transcript at 1448:10-1449:15

77

Secondary Considerations

Sonos Cannot Overcome Google's Strong Invalidity Showing

"[W]here a claimed invention represents no more than the *predictable use of prior art elements* according to established functions, as here, *evidence of secondary indicia are frequently deemed inadequate to establish non-obviousness*."

Ohio Willow Wood Co. v. Alps South, LLC, 735 F.3d 1333, 1344, (Fed. Cir. 2013) (emphasis added))

Dr. Almeroth Failed to Present Any Secondary Considerations of Non-Obviousness

Kevin Almeroth

Sonos's Technical Expert

- 2020 "commerce content" does not show industry praise and has no nexus

- 2016 Sonos Forum posts show perceived lack of value of alleged invention and Sonos's 15-year delay

Sonos Points To "Commerce Content" That Does Not Show Industry Praise

TX6780

Sonos's 2020 "CNN Article" Contains No Link to Overlapping Zone Scenes

Kevin Almeroth
Technical Expert

Q. Again, I'm just asking about what the words say. The words in this document that you showed us do not talk about overlapping zone scenes; correct?

A. Not specifically.

Transcript (Almeroth) at 1687:24-1688:2

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Migrating your Sonos system to the new S2 app can be messy. Here's what we know
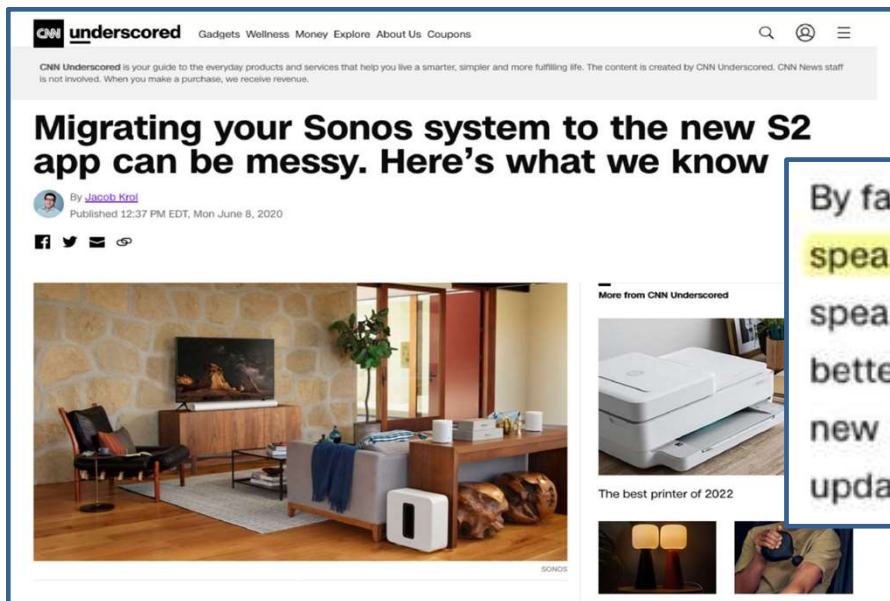
By Jacob Krol
Published 12:37 PM EDT, Mon June 8, 2020

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By far the best feature of Sonos S2 is the ability to save a group of speakers as a preset. No longer will you need to constantly select which speaker you want to listen to each time. Save it as a group, and you're better off. It's really great, and Sonos notes this is the first of a series of new user interface updates that will sit alongside audio technology updates. For the latter, Sonos S2 is a key part of Dolby Atmos on the Arc.

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There Is No Presumption of Nexus

Presumption of nexus applies only "when the patentee shows that the asserted objective evidence is tied to a specific product and that product embodies the claimed features, *and is coextensive with them*."

* * *

"Conversely, when the thing that is commercially successful is not coextensive with the patented invention—for example, *if the patented invention is only a component of a commercially successful machine or process, the patentee is not entitled to a presumption of nexus*."

Fox Factory, Inc. v. SRAM, LLC, 944 F.3d 1366, 1373 (Fed. Cir. 2019) (cleaned up, emphasis added))

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S2 Had "Really Important" Features _Unrelated_ to Invention

SONOS

Nick Millington
Sonos's Chief Innovation Officer

Q. And how about a little bit more recently, what were -- what was one of the major milestones that Sonos released in just the last few years?

A. In the last few years, we released a new version of all of our system software that we called the "S2 experience."

Q. And what is S2?

A. S2 is a software release that introduced some **really important features** for us, including **support for high-res audio formats**, which is an innovation that's been, you know, **spreading throughout the industry in terms of improving audio quality**. And it also introduced a feature that we call "saved groups" or "zone scene style grouping."

Trial Tr. 287:2-13

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